

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 474.5, and 476.2, the Utilities Board (Board) gives notice that on May 26, 2017, the Board issued an order in Docket No. RMU-2016-0017, In re: Review of Reorganization Rules [199 IAC Chapter 32], “Order Commencing Rule Making,” proposing to amend the Board’s Chapter 32 reorganization rules. The order approving this Notice of Intended Action can be found on the Board’s Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0017.

The Board is undertaking a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these amendments is to clarify the rules to promote ease of access for those interacting with the Board.

The proposed amendments to Chapter 32 clarify the revenue limits for utilities operating in more than one regulated line of business, such as both natural gas and electricity. The proposed amendments also clarify that multiple corporate officers’ time may be accounted for and allocated rather than a single officer’s time, and eliminate the provision that parties who fail to file testimony and exhibits within the required time frame may still be allowed to present testimony and exhibits at a subsequent hearing.

The Board is also proposing to implement a rule that would require water, sanitary sewage, and storm water drainage utilities to provide notice to the Board of any purchase, sale, lease, or other acquisition or disposition directly or indirectly of the whole or any substantial part of a public utility’s assets. The proposed rule would also have such utilities maintain separate books and records for any purchase or acquisition until the utility’s next general rate case.

To develop the proposed amendments, the Board sought early input from stakeholders. Stakeholder comments were filed by the Office of Consumer Advocate, a division of the Iowa Department of Justice, and Interstate Power and Light Company. The Office of Consumer Advocate stated it did not have any objections to the proposed amendments, and Interstate Power and Light Company stated it did not have any comments on the proposed amendments.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before July 11, 2017. The statement should be filed electronically through the Board’s EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to Docket No. RMU–2016–0017. Paper comments may only be filed with approval of the Board.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested, or the Board on its own motion after reviewing the comments may determine an oral presentation should be scheduled. Requests for an oral presentation should be filed in EFS by July 11, 2017, in Docket No. RMU-2016-0017.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on employment in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.6, 476.76, and 476.77.

The following amendments are proposed.

ITEM 1. Amend subrule 32.2(1) as follows:

32.2(1) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to ~~199—IAC 1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476,78GA,HF2206), no public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility’s Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater. For purposes of this subrule and subrule 32.2(2), “value” means the greater of market value or book value. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

ITEM 2. Amend subrule 32.2(2) as follows:

32.2(2) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to rule ~~32.8(476)~~ 199—32.8(476), no public utility shall sell or otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility’s Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater. However, for utilities for which the 3 percent limit is greater than \$5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of \$10 million. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

ITEM 3. Amend rule 199—32.3(476) as follows:

199—32.3(476) Declaratory rulings orders. Any person may request a determination as to whether the proposed action ~~it proposes~~ would constitute a reorganization or whether the assets involved would constitute a substantial part of a public utility’s assets, as defined in Iowa Code section 476.72 and these rules, by filing a petition for declaratory ~~ruling order~~, as set out in 199—Chapter 4.

ITEM 4. Amend subparagraph **32.4(2)“e”(1)** as follows:

(1) Accounting for and allocating ~~officer’s~~ officers’ time between the public utility and any affiliates, and

ITEM 5. Amend subrule 32.9(1) as follows:

32.9(1) Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors shall file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing. ~~However, failure to file written testimony and exhibits within 40 days shall not preclude the consumer advocate and any intervenors from presenting witness testimony and exhibits at any hearing ordered by the board to be held with respect to the proposed reorganization.~~

ITEM 6. Adopt the following new rule 199—32.10(476):

199—32.10(476) Water, sanitary sewage, and storm water drainage utilities.

32.10(1) Water, sanitary sewage, and storm water drainage utilities shall provide the board with advance notice of any purchase, sale, lease, or other acquisition or disposition directly or indirectly of the whole or any substantial part of a public utility’s assets as defined by rule 199—32.2(476).

32.10(2) Water, sanitary sewage, and storm water drainage utilities shall maintain separate books and records for any acquisition or purchase until the utility’s next general rate case.